

53. The method according to claim 49 wherein step (e) includes opening the at least one lock to enable access to the storage location.

Remarks

Claims 48-53 have been added. Claims 38-53 are now pending in the patent Application.

Applicants' Claims Are Not Anticipated by Pearson 232

In the Action claims 38-41, 43 and 45-47 were rejected pursuant to 35 U.S.C. § 102(e) as anticipated by Pearson 232. This rejection is respectfully traversed.

As acknowledged in the Action, this Application is a divisional of U.S. Patent Application Serial Number 08/861,783 filed December 16, 1994. As the Patent Office has verified, each and every feature of the pending claims is disclosed in the prior patent application having this filing date. In addition, numerous elements of pending claims are disclosed in earlier applications from which this Application claims priority, including Application Serial Number 08/009,055 filed January 25, 1993 (now U.S. Patent 5,404,384) and Serial Number 08/186,285 filed January 25, 1994 (now U.S. Patent 5,533,079).

The filing date of the Pearson 232 reference is February 12, 1996 which is almost fourteen months after Applicants' priority date. Further, while Pearson claims priority of several earlier applications, Pearson 232 can claim a priority date no earlier than March 7, 1994, which is the filing date of Application Serial Number 206,877. While Pearson also claims priority of earlier applications, these earlier applications do not disclose or suggest the features in Pearson 232 mentioned in the Action as being pertinent to the present invention. This is demonstrated by

Pearson's earlier Patent Number 5,292,029 which has been cited in the Action. The Pearson 029 patent does not disclose the features that were considered pertinent in the Action to the pending claims. As a result, the earliest date which Pearson may claim for the disclosure in Pearson 232 is March 7, 1994, which is considerably less than one year prior to Applicants' filing date.

The undersigned wishes to point out that because Applicants reduced their invention to practice prior to the earliest filing date that can be possibly claimed for Pearson 232, Applicants have not verified that the features and relationships alleged in the Action to be pertinent to the pending claims in Pearson 232 are actually found in Pearson's March 7, 1994 Application. Applicants reserve the right to contest this assertion in response to any further Office Action. In addition, because Applicants reduced their invention to practice in this country prior to the earliest filing date that can be asserted for Pearson 232, Applicants have not discussed in this Response the detailed reasons why Pearson 232 does not disclose the features recited in the claims against which it is cited in the Action. Applicants reserve the right to do this in response to a further Office Action.

Applicants reduced their invention claimed in each of the pending independent claims and dependent claims prior to March 7, 1994. This is shown through the Declaration of Applicant, R. Michael McGrady attached hereto, which is submitted on behalf of the Assignee of the present invention. The attached Declaration and corroborating documentation proves that Applicants reduced their invention practice in this country prior to the earliest possible effective filing date of the Pearson 232 patent. As a result Pearson 232 does not qualify as a reference against Applicants' claims.

Additionally, or in the alternative, the attached Declaration and documentation establishes that prior to the effective filing date of the Pearson 232 Application, Applicants reduced to practice in this country an invention which would serve to render the invention as claimed in each of the claims of the pending Application, obvious to one having ordinary skill in the art. This obviates the effect of Pearson 232 as a prior art reference against Applicants' claims.

As the evidence attached hereto establishes that Applicants reduced their invention to practice in this country prior to the earliest possible effective filing date of Pearson 232, the Pearson 232 patent cannot be properly applied as a reference against the pending claims. It is therefore respectfully submitted that the §102(e) rejection has been overcome and that all the pending claims should be allowed.

Applicants' Claims Are Not Obvious From the Teachings of Pearson 232 in View of

Meador

In the Action claims 38 - 43 and 45 - 47 were rejected as being unpatentable over Pearson 232 in view of Meador, et al. ("Meador"). This rejection is respectfully traversed.

Pearson 232 is not properly applied as a reference against Applicants' pending claims because Applicants reduced their invention to practice in this country prior to the earliest possible filing date of the Pearson 232 reference. For this reason alone, the §103 rejection is not appropriate.

Meador indicates an earliest possible filing date of September 28, 1994. This date is even later than the earliest priority date of the Pearson 232 reference. This is also substantially after the date that Applicants reduced their invention to practice in this country, as proven through the

attached Declaration of R. Michael McGrady and the documentation attached hereto. As the attached evidence establishes, Applicants had reduced their invention to practice in this country prior to March 7, 1994 and this eliminates any applicability of the later filed Meador as a reference against Applicants' claims.

As Applicants reduced their invention to practice in this country substantially prior to the date of the Meador reference, Meador is not discussed herein in detail. However, Applicants reserve the right in response to any future Action to point out that Meador and Pearson do not disclose or suggest the features recited in Applicants' claims, nor is there any teaching, suggestion, or motivation in either Pearson or Meador for producing the invention as claimed by Applicants.

As neither Pearson 232 or Meador is properly cited as prior art against Applicants' claims, it is respectfully submitted that the rejections based on the combination of Pearson 232 and Meador has been overcome and should be withdrawn.

Applicants' Claims Are Not Obvious From the Teachings of Pearson in View of Blechle

In the Action, claims 38 - 47 were rejected pursuant to 35 U.S.C. § 103(a) as unpatentable over Pearson 232 and Blechle, et al. (Blechle). This rejection is respectfully traversed.

As previously discussed, Pearson 232 does not constitute prior art against Applicants. Thus, any rejection based on a combination of Pearson 232 with other references is legally improper and cannot be sustained. As a result, the rejection based on the asserted combination of features in Pearson 232 and Blechle is improper and should be withdrawn.

It should further be pointed out that the combination of Pearson and Blechle is cited for the features of a touch screen and reading data from an object. Applicants respectfully traverse the assertion in the Action that Blechle or any combination of Pearson and Blechle disclose the features recited in Applicants' claims, or that there is any teaching, suggestion or motivation in Blechle or Pearson 232 so as to produce Applicants' invention. Applicants reserve the right to refute these assertions in response to a further Office Action.

The evidence attached hereto establishes unequivocally that Applicants reduced the claimed invention to practice in this country prior to the earliest possible filing date that can be claimed for the Pearson 232 reference. As a result, the rejections in the Action pursuant to §103 are improper and should be withdrawn.

The New Claims

Claims 48 - 53 have been added herein. Each of these claims includes only subject matter included in prior claims and it is respectfully submitted that each should be allowed.

Claim 48 corresponds directly to claim 38 but utilizes a labeling convention for each of the elements so as to streamline the references to the steps claimed. It is respectfully submitted that this claim is allowable for the same reasons as claim 38, and the other claims pending in the Application.

Claim 49 is an independent claim which includes each of the features previously recited in claims 38 and 39. Claim 49 utilizes a labeling convention for the method steps so as to enhance clarity of the recited elements. It is respectfully submitted that claim 49 is allowable on the same basis as claims 38 and 39.

Claims 50 - 53 correspond to prior claims as well. Claim 50 recites that the dispensing step includes dispensing at least one of a type medical item from a dispenser. This was previously claimed for example in connection with claim 46. Claim 51 specifically recites that the dispensing step includes unlocking a drawer to enable access to a medical item. This corresponds for example to prior claim 47.

Claim 52 specifically recites that the dispensing step includes releasing at least one of the type medical item from a holding device holding such item. This corresponds for example, to prior claims 45, 46 and 47.

Claim 53 specifically recites that the dispensing step includes opening at least one lock to enable access to a storage location. This corresponds for example, to prior claim 47.

Each of new claims 50 - 53 depend directly from new independent claim 49. The subject matter of each of these claims was reduced to practice in this country prior to the earliest possible filing dates of Pearson 232 and Meador. It is therefore respectfully submitted that each of the pending claims is allowable.

Conclusion

The pending patent Application has an effective filing date of December 16, 1994. Further, many aspects of the pending Application are entitled to an effective filing date at least as early as January 25, 1993. Each of the references cited against Applicants' claims may claim a filing date no earlier than March 7, 1994. The evidence attached hereto establishes without question that Applicants had reduced their invention to practice in this country prior to that date.

As a result, all the pending rejections in the Action are not legally proper and should be withdrawn.

Applicants also respectfully wish to point out that this Application was pending for almost twenty-nine months before it received a first Office Action. The undersigned has sent numerous requests to the Patent Office requesting status information. This unreasonable delay which was caused through no fault of the Applicants has caused prejudice to Applicants' position and greatly shortened the potential patent term of any patent issued on the pending Application. This is particularly true as Applicants claim a priority date as early as January 1993. For this reason it is respectfully submitted that the Patent Office allow this Application as soon as possible.

Further examination and reconsideration of the pending Application is requested in view of the foregoing comments, amendments and attached evidence. The undersigned will be happy to discuss any aspect of the Application by telephone at the Examiner's convenience.

Respectfully submitted,



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